

ORIGINAL

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
WILMINGTON DIVISION

PARRIS WALL,

Petitioner,

v.

Cause No.: 99-33-004
(Judge, RODERICK. R. McKELVIE)

UNITED STATES OF AMERICA,

Respondent. /

MOTION FOR RETURN OF UNITED STATES CURRENCY AND
MISCELLANEOUS PROPERTY SEIZED DURING SUBSEQUENT ARREST AND SEARCH
NOW HELD IN VIOLATION OF FED.R.CRIM.P. RULE 41(g)

NOW COMES, Parris Wall ("Petitioner"), proceeding pro ~~se~~, and does hereby respectfully move this Honorable Court pursuant to Fed.R.Crim.P. Rule 41(g), for an order granting return of United States Currency and miscellaneous property seized and currently being held illegally. To show good cause:

STANDARD OF REVIEW

Petitioner is a layman of the law and request a liberal construction of the proceedings. See, Hains v. Kener, 404 U.S. 519 (1971). This Court retains the inherent power to apply the proper construction of governing law. Kamen v. Kemper Financial Services, Inc., 114 L.Ed.2d 152 (1991).

BACKGROUND

1. On or about May 17, 1999, at approximately 4 o'clock p.m., Federal and State law enforcement authorities arrested Petitioner on a federal warrant in Smyrna, DE, in the county of Kent and/or New Castle, at a place of business called "The Crab Shack".

2. Petitioner was a passenger in a Honda Civic driven (possibly owned) by Syndee Perry. Located on Petitioner's person was United States Currency in the sum of five hundred and ninety dollars (\$590.00). Also in the custody of Petitioner was a portfolio of car titles, rent receipts and one (1) gold ring. All of which was seized by law enforcement agents on the date in question.

3. Petitioner now seeks return of illegally seized and presently held U.S. Currency and miscellaneous property.

DISCUSSION

4. The U.S. Currency now in the custody of Federal and State Agents is presently being held in violation of Petitioner's Fifth Amendment right to due process of law.

5. Petitioner's jury trial began September 27, 1999, and ended October 8, 1999, wherein, the Government never produced the \$590.00 dollars nor the portfolio as evidence against the Petitioner.

6. Furthermore, at no time has Petitioner been served with a notice of seizure by Federal or State agencies. Likewise, neither has there been a judicial or adversary process, nor hearing regarding the seized U.S. Currency and miscellaneous property. A violation of Petitioner's due process right to object to an illegal seizure.

7. Petitioner has a constitutional right to challenge the seizure of the currency and property because, Court's have recognized that once the government no longer has a need to use evidence, it should be returned. See e.g., United States v. Wilson, 540 F.2d 1100 (D.C. Cir. 1976).

8. Accordingly, Petitioner asserts that seized property and U.S. Currency, now being held in violation of the Constitution and laws of this Country, without reason or legal attachment, should be returned to its rightful owner, the Petitioner.

WHEREFORE, Petitioner prays that this Honorable Court issue an order directing the return of illegally seized property and currency, or, in the alternative, grant Petitioner an evidentiary hearing to determine Petitioner's claim to said illegally held property and currency.

Respectfully submitted,



Parris Wall #04172-015
USP Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

I HEREBY DECLARE, under penalty of perjury that the foregoing is true and correct. Executed on this 19 day of JANUARY 2006, 2006.

Parris Wall
Parris Wall, Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I have mailed a copy of the foregoing: Motion For Return of U.S. Currency and Miscellaneous Property, held in violation of Fed.R.Crim.P. Rule 41(g), to the Asst. U.S. Attorney, via U.S. Mailbox here at USP Lewisburg.

Date: 1/19/2006

Parris Wall
Parris Wall
Petitioner Pro Se
Reg. #04172-015



Case 1:99-cr-00033-JLF



Inmate Name: PARRIS WALL
Register Number: 04172-015

United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

U.S.M.S.
X-RAY

U. S. DISTRICT COURT
J. CALEB BOGGS FEDERAL BLDG.
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